IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No. 627 of 1995

For Approval and Signature:

HONOURABLE MS. JUSTICE R.M.DOSHIT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to civil judge ?

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CHIMANLAL PRABHUDAS - Applicant(s)

Versus

TARABEN HIRJIBHAI & 4 & 4 - Opponent(s)

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Appearance :

MR SURESH M SHAH for

MR MEHUL S SHAH for Petitioners

MR ND NANAVATI for Respondents

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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT

Date : 22/08/2005

ORAL JUDGMENT

Feeling aggrieved by the Order dated 13th February, 1995 made by the learned Assistant Judge, Jamnagar below Application Exh. 13 in Civil Regular Appeal No. 204 of 1984, the respondent no.2 therein has preferred the present Revision Application under Section 115 CPC.

The respondents-landlords had instituted Regular Civil Suit No. 41 of 1980 in the Court of learned Civil Judge [JD], Khambalia for recovery of the suit premises on the ground that the tenant-defendant no.1 had unlawfully sublet the suit premises to the defendant no.2, the present petitioner. The suit came to be dismissed by the learned Civil Judge. Feeling aggrieved, the plaintiffs preferred Regular Civil Appeal No. 204 of 1984. Pending the said Appeal, the tenant-defendant no.1 passed away on 13th September, 1990. On 20th April, 1991, the defendant no.2 filed Application Exh.8 in pending Appeal No. 204 of 1984. It was declared that the defendant no.1-tenant had passed away on 13th September, 1990 and that the appeal had abated. Pursuant to the said Application, the plaintiffs filed Application Exh.13 on 27th February, 1992. The plaintiffs prayed for condonation of delay; setting aside the abatement and to substitute the legal representatives of the deceased defendant no.1. The said application was contested by defendant no.2 on the ground of delay. The said application came to be allowed by the *impugned* order dated 13th February, 1995. In view of the said order, Application Exh. 8 was disposed of on 13th February, 1995. Therefore, the present Revision Application.

The *impugned* order is just and legal and is made in the interest of justice. No interference is warranted. Revision Application is dismissed with cost. ***Rule*** is discharged. *Interim* relief stands vacated.

R & P be returned to the Court below *forthwith.*

{Miss R.M Doshit, J.}

*Prakash**